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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,464	05/09/2001	Ray Milkey	PA1676US	6037
22830	7590	06/15/2005	EXAMINER	
CARR & FERRELL LLP 2200 GENG ROAD PALO ALTO, CA 94303			SIDDIQI, MOHAMMAD A	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/852,464

Applicant(s)

MILKEY ET AL.

Examiner

Mohammad A. Siddiqi

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 April 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 04/07/2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Claims 1-58 are presented for examination.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 4-18, 20-21, 26-27, 29-36, 38-40, 43, 46-49, and 57-58 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller et al. (5,920,701) (hereinafter Miller).

4. As per claims 1, Miller discloses a method for transferring files among devices in a network, comprising :

requesting a transfer (100, fig 3) of a file from a source device (22, fig 1, col 4, lines 56-59);

scheduling the transfer (col 4, lines 25-40) of the file to be completed by a deadline (delivered by the requested delivery time, col 4, lines 45-56); and

transferring the file from the source device (16, fig 1, col 4, lines 56-59) to a destination device (22, fig 1, col 4, lines 56-59), wherein the file transfer is complete by the deadline (delivered by the requested delivery time, col 4, lines 45-56).

5. As per claim 11, Miller discloses a system for transferring files among devices in a network, comprising:

a destination device (22, fig 1, col 4, lines 56-59) configured to send a request for transfer of a file (16, fig 1, col 4, lines 56-59);

a source device (16, fig 1, col 4, lines 56-59) configured to transfer the file to the destination device (22, fig 1, col 4, lines 56-59); and

a scheduling module (col 4, lines 25-40) configured to schedule the transfer (100, fig 3) of the file from the source device in response to the request (col 4, lines 56-59).

6. As per claim 26, Miller discloses a method for transferring files among devices in a network, comprising:

identifying a file to be transferred to a destination device (size of the data related to file, col 4, lines 47-59);

selecting a source device (16, fig 1, col 4, lines 56-59) to transfer the file (size of the data related to file, col 4, lines 47-59); and  
scheduling the transfer of the file from the selected source device (col 4, lines 25-40) to the destination (22, fig 1, col 4, lines 56-59).

7. As per claim 38, the claim is rejected for the same reasons as claim 11, above.

8. As per claim 57, the claim is rejected for the same reasons as claim 1, above.

9. As per claim 58, Miller discloses a system for transferring files among devices in a network, comprising:

a plurality of servers (12,14, fig 1) configured to deliver content to the devices in the network (col 4, lines 35-40);

a plurality of clients configured to receive content from the plurality of servers (22, fig 1, col 4, lines 56-49); and

a scheduling module configured to determine schedules for delivery of

content from the plurality of servers (16, 18, 20, fig 1) to the plurality of clients (col 4, lines 46-59), the

schedules being based on available bandwidth at the plurality of servers (proportional bandwidth, col 2. lines 19-23), available bandwidth at the plurality of clients (proportional bandwidth, col 2. lines 19-23), and available bandwidth in the network between the plurality of servers and clients (proportional bandwidth, col 2, lines 19-23, and elements of Fig 1).

10. As per claims 2 ,18, and 34, Miller discloses wherein the step of scheduling comprises determining available bandwidth between the source device and the destination device (col 2, lines 19-26).

11. As per claims 4,13, and 33, Miller discloses a user (col 7, line 20) at the destination device (22, fig 1, col 4, lines 56-59) specifies the deadline (col 2, lines 1-7).

12. As per claims 5 and 14, Miller discloses identifying the file to be transferred from the source device (col 2, lines 14-17 and col 5, lines 19-22).

13. As per claims 6, 15, and 32, Miller discloses wherein a user (col 7, line 20) at the destination device identifies the file to be transferred from the source device (col 4, lines 56-59).

14. As per claims 7, 31, and 49, Miller discloses a pre-fetch module (col 7, lines 25-49) at the destination device identifies the file to be transferred from the source device (col 4, lines 46-59 and col 7, lines 19-26).

15. As per claims 8, 16 and 29, Miller discloses the pre-fetch module (col 7, lines 25-49) is configured to identify files to be transferred based on observations of user behavior (col 4, lines 46-59 and col 9, lines 1-15, delivery factor).

16. As per claims 9 and 17, Miller discloses wherein the pre-fetch module is configured to identify files (col 7, lines 25-49) to be transferred according to predetermined user preferences (priority, col 7, lines 21) behavior (col 4, lines 46-59 and col 7, lines 19-26).

17. As per claim 10, Miller discloses a device other than the destination device requests the file transfer from the source device (multiple subscribers, col 4, lines 45-59).

18. As per claims 12 and 30, Miller discloses the scheduling module schedules the transfer to be complete by a deadline (delivered by the requested delivery time, col 4, lines 45-56).

19. As per claims 20 and 35, Miller discloses the scheduling module schedules the transfer of the file based on available bandwidth in the network (proportional bandwidth, col 2, lines 19-23).

20. As per claims 21 and 40, Miller discloses the scheduling module resides at the source device (scheduler is serving the request, col 4, lines 35-40).

21. As per claim 27, Miller discloses the source device identifies the file to be transferred (col 7, lines 19-26).

22. As per claim 36, Miller discloses the source device is a server (col 4, lines 56-59).

23. As per claim 39, Miller discloses the content is delivered to the client without a user being present at the client during delivery (data transfer is based on parameters, col 4, lines 45-59).



24. As per claim 43, Miller discloses the control server monitors bandwidth and storage resources in the network and provides bandwidth and storage resources data to the scheduling module (proportional bandwidth, col 2, lines 19-23).

25. As per claim 46, Miller discloses the client is a general-purpose computer (col 5, lines 36-38).

26. As per claim 47, Miller discloses wherein the client is a set-top box (col 5, lines 36-38).

27. As per claim 48, Miller discloses wherein the request for delivery comprises a deadline for delivery, the scheduling module determines a schedule for delivery to meet the deadline, and the server completes delivery of the content to the client by the deadline (delivered by the requested delivery time, col 4, lines 45-56).

***Claim Rejections - 35 USC § 103***

28. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

29. Claims 3 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al. (5,920,701) (hereinafter Miller) in view of Katz et al. (6,560,651) (hereinafter Katz).

30. As per claims 3 and 19, Miller fails to disclose scheduling includes determining available storage at the destination device. However, Katz discloses the step of scheduling includes determining available storage at the destination device (col 15, lines 15-17). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Miller with Katz because Katz's use of checking available storage space would provide Miller's system a method of checking client available storage space prior to data transfer.

31. Claims 22-25, 28, 37, 41-42, 50, and 52-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al. (5,920,701) (hereinafter Miller) in view of Tzelnic et al. (6,061,504) (hereinafter Tzelnic).

32. As per claim 22, Miller discloses the scheduling module resides at the destination device (Office takes the term "scheduling module" as an application which schedules and I/O and manages data storages such as operating system schedules an I/O, col 5, lines 36-39).

33. As per claim 23, Miller discloses the scheduling module (col 4, lines 35-39) resides in both the destination device and the source device (Office takes the term "scheduling module" as an application which schedules and I/O and manages data storages such as operating system schedules an I/O, col 5, lines 36-46).

34. As per claim 24, Miller fails to disclose scheduling module resides in a cache device in the network. However, Tzelnic discloses scheduling module resides in a cache device in the network (col 2, lines 47-51). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Miller with Tzelnic because Tzelnic's use of caching data stream would provide Miller's system a method faster data transfer.

35. As per claim 25, the claim is rejected for same reasons as claims 23 and 24, above.

36. As per claim 28, the claim is rejected for same reasons as claim 23 and 24, above. In addition Tzelnic discloses the source device identifies the file according to a user subscription (client, col 2, lines 51 –59).

37. As per claim 37, the claim is rejected for same reasons as claim 23, above. In addition Tzelnic discloses the source device is a cache device in the network (62, fig 6).

38. As per claim 41, the claim is rejected for the same reasons as claim 22, above.

39. As per claim 42, the claim is rejected for the same reasons as claim 23, above.

40. As per claim 50, the claim is rejected for the same reasons as claim 37, above.

41. As per claim 52, the claim is rejected for the same reasons as claim 37, above.

42. As per claim 53, the claim is rejected for the same reasons as claim 50, above. In addition Tzelnic discloses client comprises a cache management module configured to determine the size of the cache (col 18, lines 1-6 and col 9, lines 14-19, software is exported to manage the transfer).

43. As per claim 54, the claim is rejected for the same reasons as claim 53, above.

44. As per claim 55, the claim is rejected for the same reasons as claim 54, above. In addition Tzelnic discloses cache replacement algorithms to add or remove content from the cache (col 18, lines 57-62).

45. As per claim 56, the claim is rejected for the same reasons as claim 54, above. In addition Miller discloses monitor usage (col 6, lines 53-59).

46. Claims 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al. (5,920,701) (hereinafter Miller) in view of Tzelnic et al. (6,061,504) (hereinafter Tzelnic) in further view of Saliba et al. (6,052,710) (hereinafter Saliba).

47. As per claim 51, Miller fails to disclose the client comprises a mini web server configured to receive a request for content from a browser, determine that the requested content resides in the cache as pre-fetched content, and send the requested content from the cache to the browser instead of requesting the content from the server. Tzelnic discloses determine that the requested content resides in the cache as pre-fetched content (col 18, lines 1-9), and send the requested content from the cache to the client instead of requesting the content from the server (col 18, lines 9-18). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Miller with Tzelnic because Tzelnic's use caching data stream would provide Miller's system a method faster data transfer. Tzelnic fails to disclose a mini web server that is configured to receive a request for content from a browser. However, Saliba discloses the client (108, fig 7) includes a mini web server (704, fig 7) that is configured to receive a request for content from a browser (112,fig 7). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Miller and Tzelnic with Saliba because Saliba's use of mini web server and browser would provide Miller's and Tzelnic's system a robust scheduler with local cache management of data transfer.

48. Claims 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al. (5,920,701) (hereinafter Miller) in view of Peinado et al. (6,775,655) (hereinafter Peinado).

49. As per claim 44, Miller fails to disclose the server attaches digital rights management rules to the content prior to delivery. However, Peinado discloses attaches digital rights management rules to the content prior to delivery (col 3, lines 5-10). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Miller with Peinado because Peinado's use of Digital rights management rules would provide Miller's system a method of attaching license key to the transferred content.

50. As per claim 45 Miller fails to disclose the client comprises a digital rights management module configured to implement digital rights management rules attached to the content. However, Peinado discloses the client includes a digital rights management module configured to implement digital rights management rules attached to the content (col 2, lines 56-61). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Miller with Peinado

because Peinado's use of Digital rights management rules would provide Miller's system a method of obtaining license key from the server.

### ***Response to Arguments***

51. Applicant's arguments filed 04/07/2005 have been fully considered but they are not persuasive, therefore rejections to claims 1-58 is maintained.

52. In the remarks applicants argued that:

Miller discloses a method for transferring files among devices in a network, comprising :

scheduling the transfer (col 4, lines 25-40) of the file to be completed by a deadline (delivered by the requested delivery time, col 4, lines 45-56); and

**Argument:** Miller does not teach requesting a transfer of a file from source device.

**Response :** Examiner respectfully disagrees, Miller discloses requesting a transfer (Receive content distribution requests, 100, fig 3) of a file from a



source device (22, fig 1, col 4, lines 56-59, col 3, lines 45-54, scheduler is processing the request, that anticipates receiving request, acknowledging a request, scheduling a request, and processing the request).

**Argument:** Miller does not disclose transferring the file from the source device to a destination device, wherein the file transfer is complete by the deadline .

**Response:** Examiner respectfully disagrees, Miller discloses transferring the file from the source device (16, fig 1, col 4, lines 56-59) to a destination device (22, fig 1, col 4, lines 56-59), wherein the file transfer is complete by the deadline (delivered by the requested delivery time, col 4, lines 45-56 and col 3, lines 45-54, data transmission over the network anticipates source and target device).

**Argument:** Miller does not disclose identifying a file to be transferred to a destination device (size of the data related to file, col 4, lines 47-59).

**Response:** Examiner respectfully disagrees, Miller discloses identifying a file to be transferred to a destination device (size of the data related to file, col 4, lines 47-59 and col 3, lines 45-54, in the context of the invention request includes identifying specifics, for example request express the need or desire for; ask for; "She requested an extra bed in her room"; "She called

for room service", Applicant fails to point out if the size of the data is not related to file then it is related to what).

**Argument:** Miller does not teach selecting a source device (16, fig 1, col 4, lines 56-59) to transfer the file (size of the data related to file, col 4, lines 47-59).

**Response:** Examiner respectfully disagrees, Miller discloses selecting a source device (16, fig 1, col 4, lines 56-59) to transfer the file (size of the data related to file, col 4, lines 47-59, col 3, lines 45-58, resource scheduler sends to each requesting content source).

53. Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

***Conclusion***

54. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad A. Siddiqi whose telephone number is (571) 272-3976. The examiner can normally be reached on Monday -Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A. Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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